

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

ALEXEI SAAB,
a/k/a “Ali Hassan Saab,”
a/k/a “Alex Saab,”
a/k/a “Rachid,”

Defendant.

ORDER

19 Cr. 676 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

The Government’s motion for reconsideration (Dkt. No. 146) is granted only to the extent that the first sentence of the stipulation set forth in Paragraph 6 of this Court’s December 10, 2021 protective order (Dkt. No. 138) is modified to state “Hizballah-related operational activities.”

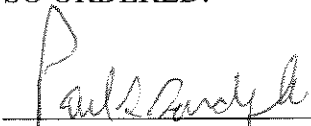
Evidence of post-2005 conduct by Defendant Alexei Saab that does not constitute operational activity may shed light on the Defendant’s state of mind prior to the spring of 2005. To the extent that the Government seeks to offer such evidence, the Court will address it either in connection with the Government’s motions in limine or at trial. If post-2005 conduct is admitted at trial, the Court will instruct the jury that such evidence is being offered solely for purposes of demonstrating the Defendant’s state of mind, and that a conviction on the material support counts cannot be premised on post-2005 conduct.

The parties should be aware that the Court’s protective order (Dkt. No. 138) does not provide a vehicle to circumvent a proffer agreement. Accordingly, were the Defendant to testify in a manner inconsistent with statements made pursuant to a proffer agreement, the

Government would be permitted to cross-examine the Defendant about prior inconsistent statements made at a proffer session.

Dated: New York, New York
December 28, 2021

SO ORDERED.



Paul G. Gardephe
United States District Judge